

### **DETAILED ACTION**

This application, filed on 8/15/2006, is a national stage entry of PCT/IL04/00317, filed on 4/8/2004.

### **Priority**

This application claims foreign priority to Application No. 155435, filed on 4/14/2003.

### **Request for Continued Examination**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/15/2010 has been entered.

### **Response to Remarks**

2. Claims 1, 3-5, 9-11, and 13-23 are pending as of the amendments filed on 3/22/2010.

Applicant's arguments filed on 3/15/2010, and claim amendments submitted on 3/22/2010 have been fully considered by the examiner, and are found sufficient to overcome the rejection under 35 USC 103(a) as being unpatentable over Olson, US Patent No. 4,731,195, in view of Jones et. al., US Patent No. 5,478,482. The rejection

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under 35 USC 103(a) is withdrawn. A proposed examiner's amendment was discussed and approved by the Applicant's attorney, Kevin McCarthy. Previously withdrawn method claims 21-23 have been amended to be commensurate in scope with the product claims 1, 3-5, 9-11, and 13-20. The restriction requirement is therefore withdrawn, and claims 1, 3-5, 9-11, and 13-23, as amended, are allowed. The examiner's amendment and reasons for allowance are disclosed below.

### **Rejoinder of Withdrawn Method Claims**

3. Claims 1, 3-5, 9-11, and 13-20 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 21-23, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 2/3/2009 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the

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provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### Examiner's Amendment

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kevin McCarthy on 6/30/2011.

Please amend the claims accordingly:

5. For claim 1, **delete** lines 1-16, and **insert** the following:

A fire retarded biocidal composition, consisting of more than 80 wt% of biocidal components mixed with a combination of inorganic compounds, which are capable of reducing the oxidative capacity of the biocidal components toward eventual organic or oxidizable matter, thus rendering said biocidal components non-comburant according to the UN test, by forming a glass, characterized in that said glass is formed when the composition is heated to temperatures from 300 to 800°C by a heating source such as fire, said combination of compounds being a combination of inorganic compounds comprising boric compounds and alkaline silicates, and said inorganic compounds being in an amount to balance said biocidal components to 100 wt%.

6. For claim 9, line 2, **delete** "8" and **insert** "1".

7. For claim 10, line 1, *after* "claim", **delete** "8" and **insert** "1".

8. For claim 21, **delete** lines 1-10, and **insert** the following:

Method for the sanitation of bodies of water, comprising the following steps:

- (i) obtaining a fire retarded biocidal composition, consisting of more than 80 wt% of biocidal components mixed with a combination of inorganic compounds, which are capable of reducing the oxidative capacity of the biocidal components toward eventual organic or oxidizable matter, thus rendering said biocidal components non-comburant according to the UN test, by forming a glass, characterized in that said glass is formed when the composition is heated to temperatures from 300 to 800 °C by a heating source such as fire, said combination of compounds being a combination of inorganic compounds comprising boric compounds and alkaline silicates, and said inorganic compounds being in an amount to balance said biocidal components to 100 wt%, and
- (ii) adding said biocidal compositions to said bodies of water.

9. For claim 23, **delete** lines 1-6, and **insert** the following:

Method for rendering biocide compositions consisting of more than 80 wt% of biocidal components less comburant, which comprises mixing with the biocide a combination of inorganic compounds, which are capable of reducing the oxidative capacity of the biocidal components toward eventual organic or oxidizable matter, thus rendering said biocidal components non-comburant according to the UN test, by forming a glass characterized in that said glass is formed when the compositions are heated to temperatures from 300 to 800°C by a heating source such as fire, said combination of compounds being a combination of inorganic compounds comprising boric compounds and alkaline silicates, and said inorganic compounds being in an amount to balance said biocidal components to 100 wt%.

### **Statement of Reasons for Allowance**

10. The following is an examiner's statement of reasons for allowance: there is no prior art which teaches or suggests the claimed fire-retarded biocidal composition, consisting of more than 80% by weight of biocidal compounds mixed with a combination of the inorganic compounds comprised of boric compounds and alkaline silicates. The closest prior art is Olson, US Patent No. 4,731,195, and Jones et. al., US Patent No. 5,478,482 (both of previous record). Olson discloses a biocidal composition comprised of the active biocidal compound, along with an inner coating comprised of organic components and an additional layer comprised of components selected from a variety of organic and inorganic compounds. Jones et. al. also teaches a biocidal composition comprised of an active biocide along with stabilizing agents including stabilizers

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selected from a mixture of organic and inorganic compounds. The claimed composition excludes the presence of organic components other than the active biocides; as there is no suggestion or teaching by the prior art to prepare an active biocide consisting of more than 80% by weight of a biocidal component mixed with inorganic compounds comprised of boric compounds and alkaline silicates, the claimed product, method of using the claimed product, and method of preparing the claimed product are novel and non-obvious over the prior art. Claims 1, 3-5, 9-11, and 13-23, as amended, are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**

11. Claims 1, 3-5, 9-11, and 13-23 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH PIHONAK whose telephone number is (571)270-7710. The examiner can normally be reached on Monday-Thursday 7:00 AM - 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571)272-0629. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S.P.

/SREENI PADMANABHAN/  
Supervisory Patent Examiner, Art Unit 1627